

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. SALVADOR ALARCON ET AL., ACCUSED. FEDERICO MANGAHAS RESPONDENT AND APPELLANT.

G.R. No. 46551. December 12, 1939

Ponente: LAUREL, J.

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LAUREL, J.:

As an aftermath of the decision rendered by the Court of First Instance of Pampanga in criminal case No. 5733, The People of the Philippines vs. Salvador Alarcon, et al., convicting the accused therein—except one—of the crime of robbery committed in band, a denunciatory letter, signed by one Luis M. Taruc, was addressed to His Excellency, the President of the Philippines. A copy of said letter found its way to the herein respondent, Federico Mangahas who, as columnist of the Tribune, a newspaper of general circulation in the Philippines, quoted the letter in an article published by him in the issue of that paper of September 23, 1937. The objectionable portion is inserted in the following petition of the provincial fiscal of Pampanga, filed with the Court of First Instance of that province on September 29, 1937:

"PETICION PARA QUE FEDERICO MANGAHAS SEA CASTIGADO POR DESACATO

"Comparece el fiscal provincial que suscribe y al Hon. Juzgado, como motivos de accion, respetuosamente alega:

- ° Que el 23 de julio de 1937, el que suscribe presento una querella en la causa arriba titulada, por el delito de ROBO EN CUADRILLA, habiendose celebrado la vista de esta causa durante los dias 28, 29 y 30 del mismo mes y año;
- ° Que el 2 de agosto de 1937, el Hon. Juzgado dicto su decision declarando culpables a los cincuenta y dos acusados, y condenando al acusado Ricardo Serrano 1.º como jefe de la cuadrilla, a una pena indeterminada no menor de cuatro meses de arresto mayor, ni mayor de cuatro anos de prision correccional, y a todos los demas acusados a una pena indeterminada no menor de dos meses y un dia de arresto mayor, ni mayor de tres anos, ocho meses y un dia de prision correccional y al pago proporcional de las costas;
- ° Que el 9 de agosto de 1937, no estando conformes de esta decision, los referidos acusados presentaron su escrito de apelacion para ante la Corte de Apelaciones;
- ° Que el 23 de septiembre de 1937, el recurrido Federico Mangahas escribio, redacto, imprimio y publico e hizo que se publicara en el periodico diario The Tribune que se edite en la Ciudad de Manila y de general circulacion en las Islas Filipinas, en su numero correspondiente a dicha fecha, un articulo que hacia referencia a este Hon. Juzgado y a la actuacion de este en esta causa, cuyo articulo en parte es del tenor siguiente:

'Fifty-two (52) tenants in Floridablanca, Pampanga, have been charged and convicted on a trumped up charge of robbery in band because they took each a few cavans of palay for which they issued the corresponding receipts, from the bodega in the hacienda where they are working. These tenants contend that they have the right to take the palay for their food as the hacienda owner has the obligation to give them rations of palay for

their maintenance and their families to be paid later with their share of their crop. But this is not all. When the convicted tenants appealed the case and were released on bail pending their appeal, court and public officials exerted pressure upon one of their bondsmen, as this bondsman informed the tenants, to withdraw his bail for them, and the fifty-two tenants were arrested again and put in jail.'

- ° Que la publicacion de este articulo acotado constituye un verdadero desacato al Tribunal, porque tiene por objeto obstaculizar la recta administration de justicia, y tiende, ademas, a impresionar en el animo del Tribunal y a ejercer influencia en la decision que se dictare en este causa;

- ° Que la publicacion de dicho articulo es igualmente un verdarero desacato a este Hon. Juzgado, por ser completamente falsos y tendenciosos los hechos expuestos en el mismo como hechos ejecutados por este Hon. Juzgado;

- ° Que el recurrido Federico Mangahas con dicho articulo acotado, voluntaria, maliciosa y deliberadamente trato y se propuso atacar la honra, virtud y reputation de este Hon. Juzgado exponiendolo el menosprecio y ridiculo del publico por las imputaciones falsas, maliciosas y difamatorias contenidas en dicho articulo.

"Por tanto, pide se sirva ordenar el emplazamiento del recurrido Federico Mangahas, c/o T. V. T. Publishing Corporation, Calle Florentino Torres, Manila, para que comparezca ante este Hon. Juzgado y conteste a la presents petition, y, previos los tramites legales, dicho recurrido sea castigado por desacato. Pide igualmente se sirva dictar cualquier otra resolution que en derecho proceda."

"San Fernando, Pampanga, septiembre 23, 1937," On the same date, the lower court ordered the respondent to appear and show cause. The respondent appeared and filed an answer, alleging:

"1. That he did not draft and write the paragraph above quoted in the petition of the Provincial Fiscal, but the same is merely a part of a letter addressed to the President of the Philippines, certified copy of which is hereto attached, and marked Exhibit '1.'

"2. That he caused the said letter to be copied without comments or remarks as may be seen from the attached issue of the The Tribune' on September 23, 1937, marked Exhibit '2.'

"3. That in having the said letter copied it was not the intention, much less the purpose and design of the respondent to attack the honor, virtue and reputation of this Honorable Court but merely cited it as an instance of the popular tendency to resort to the President in everything.

"4. That far from reflecting on the honor, virtue and reputation of this Honorable Court, the publication of the letter to the President simply constitutes an indirect criticism of the methods of the Popular Front in building up its political prestige.

"5. That the publication of the letter in question did not and does not embarrass, impede, intimidate or influence this Honorable Court in the exercise of its judicial functions, or prevent an impartial trial in this case, inasmuch as the case has already been decided.

"6. That the respondent alleges that this case is no longer pending before this Hon. Court and therefore the Court has lost its jurisdiction over it.

"7. The respondent contends that the portion of the article quoted by the provincial fiscal in his petition for contempt does not constitute contempt of court because it does not attack nor question the judgment of the Court but only explain the side of the defendant.

"8. The general rule is that to constitute any publication a contempt it must have reference to a matter then pending in court, and be of a character tending to the injury of pending proceeding before it and of the subsequent proceeding. It is accordingly held that libelous comments upon a sentence already passed in a

criminal proceeding is not a contempt.' (Percival v. State, 45 Neb., 741; 50 Am. St. Rept, 568; 64 NW. 221; 68 L. R. A., 255.)

"9. 'But comment upon the lower court's decision was held not contemptuous because relating to a concluded matter, in *Re Dalton*, 46 Jan., 256; 26 Pac, 673 and *Dumhan v. State*, 6 Iowa, 245; although the case was then pending on appeal.' (68 L. R. A., 262.) (Underlining ours.)

"10. That the publication of the letter in question is in line with the constitutional guarantee of freedom of the press."

On November 29, 1937, the lower court entered an order, the dispositive part of which reads thus:

" Considerando, sin embargo, todas las circunstancias del caso, el Juzgado solamente impone al recurrido una multa nominal de P25, o en caso de insolvencia, cinco dias de prision sin perjuicio de la accion por libelo que el fiscal creyere conveniente incoar contra Luis M. Taruc.

"Asi se ordena."

Respondent Mañgahas appealed from this order to the Court of Appeals—which later certified the case to this Court as involving only a question of law—assigning the following errors allegedly committed by the trial court;

"I. The lower court erred in finding the respondent guilty of contempt of court.

"II. The lower court erred in considering the letter quoted in the article in question as falling under the Rules on the Investigation of Judges of First Instance.

"III. The lower court erred in taking jurisdiction of the motion for contempt."

Consideration of the first error is all that is necessary as the same will lead incidentally to the disposition of the other two.

The elements of contempt by newspaper publications are well defined by the cases adjudicated in this as in other jurisdictions. Newspaper publications tending to impede, obstruct, embarrass, or influence the courts in administering justice in a pending suit or proceeding constitutes criminal contempt which is summarily punishable by the courts. The rule is otherwise after the cause is ended. (In *re Lozano and Quevedo*, 54 Phil., 801; In *re Abistado*, 57 Phil., 668.) It must, however, clearly appear that such publications do impede, interfere with, and embarrass the administration of justice before the author of the publications should be held for contempt. (*Nixon v. State* 207 Ind., 426, 193 N. E., 591, 97 A. L. R., 894.) What is thus sought to be shielded against the influence of newspaper comments is the all-important duty of the court to administer justice in the decision of a pending case. There is no pending case to speak of when and once the court has come upon a decision and has lost control either to reconsider or amend it. That, we believe, is the case at bar, for here we have a concession that the letter complained of was published after the Court of First Instance of Pampanga had decided the aforesaid criminal case for robbery in band, and after that decision had been appealed to the Court of Appeals. The fact that a motion to reconsider its order confiscating the bond of the accused therein was subsequently filed may be admitted; but, the important consideration is that it was then without power to reopen or modify the decision which it had rendered upon the merits of the case, and could not have been influenced by the questioned publication.

If it be contended, however, that the publication of the questioned letter constitutes contempt of the Court of Appeals where the appeal in the criminal case was then pending, as was the theory of the provincial fiscal below which was accepted by the lower court, we take the view that in the interrelation of the different courts forming our integrated judicial system, one court is not an agent or representative of another and may not, for this reason, punish contempts in vindication of the authority and decorum which are not its own. The appeal transfers the

proceedings to the appellate court, and this last court becomes thereby charged with the authority to deal with contempts committed after the perfection of the appeal.

The Solicitor-General, in his brief, suggests that "even if there had been nothing more pending before the trial court, this still had jurisdiction to punish the accused for contempt, for the reason that the publication scandalized the court (13 C. J., p. 37, 45; 6 R. C. L., 513.)" The rule suggested, which has its origin at common law, is involved in some doubt under modern English law and in the United States, "the weight of authority, however, is clearly to the effect that comment upon concluded cases is unrestricted under our constitutional guaranty of the liberty of the press." (Annotations, 68 L. R. A., 255.) Other considerations argue against our adoption of the suggested holding. As stated, the rule imported into this jurisdiction is that "newspaper publications tending to impede, obstruct, embarrass, or influence the courts in administering justice in a pending suit or proceeding constitute criminal contempt which is summarily punishable by the courts; that the rule is otherwise after the case is ended." (In re Lozano and Quevedo; supra; In re Abistado, supra.) In at least two instances, this Court has exercised the power to punish for contempt "on the preservative and on the vindicative principle" (Villavicencio vs. Lukban, 39 Phil., 778), "on the corrective and not on the retaliatory idea of punishment". In re Lozano and Quevedo, supra.) Contempt of court is in the nature of a criminal offense (Lee Yick Hon vs. Collector of Customs, 41 Phil., 548), and in considering the probable effects of the article alleged to be contemptuous, every fair and reasonable inference consistent with the theory of defendant's innocence will be indulged (State v. New Mexican Printing Co., 25 N. M., 102, 177 p. 751), and where a reasonable doubt in fact or in law exists as to the guilt of one of constructive contempt for interfering with the due administration of justice the doubt must be resolved in his favor, and he must be acquitted. (State v. Hazeltine, 82 Wash., 81, 143 p. 436.)

The appealed order is hereby reversed, and the respondent acquitted, without pronouncement as to costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Concepcion, JJ., concur.
Moran, J., see dissenting opinion.

DISSENTING OPINION

MORAN, J.:

Respondent Federico Mangahas admitted having published in the September 23, 1937 issue of the Tribune, a newspaper of general circulation in the Philippines, an article, the pertinent portion of which reads as follows:

"As the election draws near the tenants and workers who have joined the Popular Front are persecuted and jailed by the authorities in Pampanga, in order to prevent them to take part in the coming election.

"Fifty-two tenants in Floridablanca, Pampanga, have been charged and convicted on a trumped up charge of robbery in band because they took each a few cavans of palay for which they issued the corresponding receipts, from the bodega in the hacienda where they are working. These tenants contend that they have the right to take the palay for their food as the hacienda owner has the obligation to give them rations of palay for their maintenance and their families to be paid later with their share of their crop. But this is not all. When the convicted tenants appealed the case and were released from bail pending their appeal, court and public official exerted pressure upon one of their bondsmen, as this bondsman informed the tenants, to withdraw his bail for them, and the fifty-two tenants were arrested again and put in jail.

"Other twenty-six tenants in Minalin, Pampanga, have just been arrested on the same charge as those in Floridablanca. The case of these Minalin tenants was dismissed about three months ago by the provincial

fiscal, but it was lately revived in order to keep the tenants in jail so that they may not be able to vote in the coming election."

"The workers and peasants seeing their abuses have entirely lost their confidence in the so-called courts of justice. Trials in court are farce and mockery for them, and they come to look upon the courts and judges as mere tools in the hands of the Government of the ruling class to oppress the workers and the poor."
(Underscoring mine.)

Although the information quotes but a part of the foregoing article, as respondent has offered the same in evidence, it may be inquired into in its entirety for the purpose of determining the true meaning and scope of the offense charged.

Upon the authority of *In re Lozano and Quevedo*, 54 Phil., 801 and *In re Abistado*, 57 Phil., 668, the majority ruled that the foregoing article, having been published after the criminal case for robbery in band has been decided by the Court of First Instance of Pampanga and after the decision therein has been appealed to the Court of Appeals, does not constitute contempt of that court.

Contempt, by reason of publications relating to court and to court proceedings, are of two kinds. A publication which tends to impede, obstruct, embarrass or influence the courts in administering justice in a pending suit or proceeding, constitutes criminal contempt which is summarily punishable by courts. This is the rule announced in the cases relied upon by the majority. A publication which tends to degrade the courts and to destroy public confidence in them or that which tends to bring them in any way into disrepute, constitutes likewise criminal contempt, and is equally punishable by courts. In the language of the majority, what is sought, in the first kind of contempt, to be shielded against the influence of newspaper comments, is the all-important duty of the courts to administer justice in the decision of a pending case. In the second kind of contempt, the punitive hand of justice is extended to vindicate the courts from any act or conduct calculated to bring them into disfavor or to destroy public confidence in them. In the first, there is no contempt where there is no action pending, as there is no decision which might in any way be influenced by the newspaper publication. In the second, the contempt exists, with or without a pending case, as what is sought to be protected is the court itself and its dignity. (12 Am. Jur. pp. 416-417.) Courts would lose their utility if public confidence in them is destroyed.

In the instant case, there can be no question that the publication is an attack upon the court itself calculated to bring it into disfavor; and, to the extent that it characterizes the trials therein as "farce and mockery," it jeopardizes not only its dignity but also its very existence. To deny to the court the power to punish such an attack is to deprive it of its very right to self-preservation.

It is true that the Constitution guarantees the freedom of speech and of the press. But license or abuse of that freedom should not be confused with freedom in its true sense. Well-ordered liberty demands no less unrelaxing vigilance against abuse of the sacred guaranties of the Constitution than the fullest protection of their legitimate exercise. As important as is the maintenance of a free press and the free exercise of the rights of the citizens is the maintenance of a judiciary unhampered in its administration of justice and secure in its continuous enjoyment of public confidence. "The administration of justice and freedom of the press, though separate and distinct are equally sacred, and neither should be violated by the other. The press and the courts have correlative rights and duties and should cooperate to uphold the principles of the Constitution and the laws, from which the former receives its prerogatives and the latter its jurisdiction." (*U. S. vs. Sullens*, 36 Fed., 2d ed., 230.) Democracy cannot long endure in a country where liberty is grossly misused any more than where liberty is illegitimately abridged.

In *State vs. Morrill*, 16 Ark., 384, the court wisely observed :

"Any citizen has the right to publish the proceedings and decisions of this court, and if he deem it necessary

for the public good, to comment upon them freely, discuss their correctness, the fitness or unfitness of the judges for their stations, and the fidelity with which they perform the important public trusts reposed in them, but he has no right to attempt, by defamatory publications, to degrade the tribunal, destroy public confidence in it, and dispose the community to disregard and set at naught its orders, judgments, and decrees. Such publications are an abuse of the liberty of the press, and tend to sap the very foundation of good order and well being in society, by obstructing the course of justice. If a judge is really corrupt, and unworthy of the station which he holds, the constitution has provided an ample remedy by impeachment or address, where he can meet his accuser face to face, and his conduct may undergo a full investigation. The liberty of the press is one thing, and licentious scandal is another." * * *

If the contemptuous publication made by the respondent herein were directed to this Court in connection with a case already decided, the effect of the rule laid down by the majority is to deny this Court the power to vindicate its dignity. The mischievous consequences that will follow from the situation thus sought to be permitted, are both too obvious and odious to be stated. The administration of justice, no matter how righteous, may be identified with all sorts of fancied scandal and corruption. Litigants, discontented for having lost their cases, will have every way to give vent to their resentment. Respect and obedience to law will ultimately be shattered, and, as a consequence, the utility of the courts will completely disappear.

It may be said that respect to courts cannot be compelled and that public confidence should be a tribute to judicial worth, virtue and intelligence. But compelling respect to courts is one thing and denying the courts the power to vindicate themselves when outraged is another. I know of no principle of law that authorizes with impunity a discontented citizen to unleash, by newspaper publications, the avalanche of his wrath and venom upon courts and judges. If he believes that a judge is corrupt and that justice has somewhere been perverted, law and order require that he follow the processes provided by the Constitution and the statutes by instituting the corresponding proceedings for impeachment or otherwise. As Mr. Justice Palmer, in speaking of the duty of courts and court officers, has wisely said:

"Would it be just to the person who are called upon to exercise these powers to compel them to do so, and at the same time allow them to be maltreated or libeled because they did so? How would a suitor like a juryman trying his case who might expect he would be assaulted, beaten, his property destroyed, or his reputation blasted, in case he decided against his opponent? Apply the same thing to judges, or the sheriff, and how long could organized society hold together? * * * With reference to a judge, if he has acted corruptly, it is worse than a mere contempt. But it is apparent it would not be right that the court of which he is a member should determine this, and consequently the law has provided a plain and easy method of bringing him to justice by a petition to Parliament; * * * but, while the law authorizes this, it does not allow infamous charges to be made against him by persons, either in the newspapers or otherwise, with reference to how he has or shall discharge the duties of his office. It must be apparent to all right thinking men that, if such were allowed to be indulged in, it must end in the usefulness of the court itself being destroyed, however righteous its judges may act. From what I have said it must not be supposed that I think that the decisions of the court, or the actions of the judges, or other persons composing the court, are not to be discussed; on the contrary, I would allow the freest criticism, of all such acts if done in a fair spirit, only stopping at what must injure or destroy the court itself and bring the administration of the law into disrepute, or be an outrage on the persons whose acts are discussed, or when such discussion would interfere with the right decision of the cause before the court." (Ex parte Baird, 27 N. B., 99.)

It might be suggested that judges who are unjustly attacked have a remedy in an action for libel. This suggestion has, however, no rational basis in principle. In the first place, the outrage is not directed to the judge as a private individual but to the judge as such or to the court as an organ of the administration of justice. In the second place, public interests will gravely suffer where the judge, as such, will, from time to time, be pulled down and disrobed of his judicial authority to face his assailant on equal grounds and prosecute cases in his behalf as a private

individual. The same reasons of public policy which exempt a judge from civil liability in the exercise of his judicial functions, most fundamental of which is the policy to confine his time exclusively to the discharge of his public duties, applies here with equal, if not superior, force. (*Hamilton v. Williams*, 26 Ala. 529; *Busteed v. Parson*, 54 Ala. 403; *Ex parte McLeod*, 120 Fed. 130; *Coons v. State*, 191 Ind. 580; 134 N. E. 194.) Besides, as Chief Justice Kent said in *Yates v. Lansing*, 5 Johns, 282;

"Whenever we subject the established courts of the land to the degradation of private prosecution, we subdue their independence and destroy their authority. Instead of being venerable before the public, they become contemptible, and we thereby embolden the licentious to trample upon everything sacred in society, and to overturn those institutions which have hitherto been deemed the best guardians of civil liberty."

I know that in the United States, publications about courts, after the conclusion of a pending case, no matter how perverse or scandalous, are in many instances brought within the constitutional protection of the liberty of the press. But while this rule may find justification in that country, considering the American temper and psychology and the stability of its political institutions, it is doubtful whether here a similar toleration of gross misuse of liberty of the press would, under our circumstances, result in no untoward consequences to our structure of democracy yet in the process of healthful development and growth.

I still admire the judiciary of England and the vigilance with which it guards the stability of its judicial institutions. Mr. Justice Wilmot in *King v. Almon*; *Wilmots Notes*, p. 253, involving a publication containing a diatribe against Lord Mansfield, said:

"To be impartial, and to be universally thought so, are both absolutely necessary for giving justice that free, open, and uninterrupted current which it has for many ages found all over this kingdom, and which so eminently distinguishes and exalts it above all nations upon the earth* * * The constitution has provided very apt and proper remedies for correcting and rectifying the involuntary mistakes of judges, and for punishing and removing them for any voluntary perversions of justice. But, if their authority is to be trampled upon by pamphleteers and newswriters, and the people are to be told that the power given to the judges for their protection is prostituted to their destruction, the courts may retain its power some little time; but I am sure it will instantly lose all its authority, and the power of the court will not long survive the authority of it."

I therefore hold that the publication constitutes contempt of the trial court and vote accordingly to affirm the order.

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